

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ERIC EDWARDS, Individually and on Behalf of All Other
Persons Similarly Situated,

Plaintiffs,

-against-

THE DEPARTMENT OF CORRECTION OF THE CITY
OF NEW YORK and THE CITY OF NEW YORK,

Defendants.

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**NOTICE OF MOTION
TO DISMISS THE
COMPLAINT IN PART**

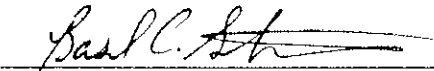
08 Civ. 3134 (DLC)

PLEASE TAKE NOTICE that upon defendants' memorandum of law dated June 13, 2008 and upon all the prior pleadings and proceedings had herein, defendants will move this Court before the Honorable Denise L. Cote, United States District Judge, at the United States District Court for the Southern District of New York, located at 500 Pearl Street, New York, New York 10007, on Friday, August 1, 2008, at a time to be set by the Court, or on an alternate date and time to be set by the Court, for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing plaintiffs' claim that Correction Officers are entitled to compensation under the Fair Labor Standards Act for time spent donning and doffing their uniforms, and for such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that answering papers, if any, shall be served upon the undersigned on or before July 11, 2008, and that reply papers shall be served upon plaintiffs' counsel on or before July 25, 2008.

Dated: New York, New York
June 13, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for City Defendants
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By: 
Basil C. Sitaras (BS-1027)
Assistant Corporation Counsel

To:

VIA ECF AND FIRST-CLASS MAIL
Douglas A. Milch, Esq.
WEITZ, KLEINICK & WEITZ, LLP
Attorneys for Plaintiffs
233 Broadway, 5th Floor
New York, New York 10279-0003

DECLARATION OF SERVICE

I, BASIL C. SITARAS, declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that on June 13, 2008, I served the annexed Notice of Motion to Dismiss the Complaint In Part, and the accompanying Memorandum of Law, upon Douglas A. Milch, Esq., attorney for plaintiffs, by depositing a copy of same, enclosed in a first class postpaid properly addressed wrapper, in a post office depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to said attorney at the addresses set forth below, being the address designated by plaintiff for that purpose:

Douglas A. Milch, Esq.
WEITZ, KLEINICK & WEITZ, LLP
Attorneys for Plaintiffs
233 Broadway, 5th Floor
New York, New York 10279-0003

Dated: New York, New York
June 13, 2008



BASIL C. SITARAS
ASSISTANT CORPORATION COUNSEL

Case No. 08 Civ. 3134 (DLC)

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	
ERIC EDWARDS, Individually and on Behalf of All Other Persons Similarly Situated,	Plaintiffs,
-against-	
THE DEPARTMENT OF CORRECTION OF THE CITY OF NEW YORK and THE CITY OF NEW YORK,	Defendants.
NOTICE OF MOTION TO DISMISS THE COMPLAINT IN PART AND DECLARATION OF ASSISTANT CORPORATION COUNSEL BASIL C. SITARAS	
<i>MICHAEL A. CARDOZO</i> <i>Corporation Counsel of the City of New York</i> <i>Attorney for City Defendants</i> <i>100 Church Street</i> <i>New York, N.Y. 10007</i> <i>Of Counsel: Basil C. Sitaras</i> <i>Tel: (212) 788-0879</i> <i>Matter No. 2008-014682</i>	
<i>Due and timely service is hereby admitted.</i>	
<i>New York, N.Y., 200</i>	
<i>..... Esq.</i>	
<i>Attorney for</i>	